

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
NOV 20 2003

OFFICE OF
MANAGING DIRECTOR

William B. Wilhelm, Jr., Esq.
Douglas D. Orvis II, Esq.
Swidler Berlin Shereff Friedman, LLP
The Washington Harbour
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116

Re: Lightyear Communications, Inc. and Lightyear
Telecommunications, LLC
Request for Waiver of FY 2003 Regulatory Fees
Fee Control No. 00000RROG-03-098

Dear Mr. Wilhelm and Mr. Orvis:

This letter responds to your request dated September 4, 2003 for a partial waiver of the fiscal year (FY) 2003 regulatory fees for Lightyear Communications, Inc. and Lightyear Telecommunications, LLC (Lightyear Companies). Our records reflect that the Lightyear Companies paid \$98,941.84 of the \$146,209.60 FY 2003 regulatory fees, but has not paid the remaining balance of \$47,267.76.

On January 15, 2003, the Office of the Managing Director (OMD) granted your request for a waiver of the FY 2002 regulatory fees with respect to the Lightyear Companies.¹ OMD granted your request based upon the information you submitted showing that the Lightyear Companies, together with their parent company, Lightyear Holdings, Inc., were the subject of Chapter 11 proceedings in the United States Bankruptcy Court, Western District of Kentucky. In granting the waiver, OMD stated that the Commission will grant waivers of its regulatory fees on a sufficient showing of financial hardship and that evidence of bankruptcy is sufficient to establish financial hardship.²

In your request, you state that the unpaid regulatory fee (i.e., \$47,267.76) "represents fees based on revenue earned before April 29, 2002, and thus cannot be paid absent approval of the U.S. Bankruptcy Court." You also assert that the Lightyear Companies were established on April 29, 2002 as part of a *pro forma* transfer of control and "are not responsible for regulatory fee payments owing as a result of revenue prior to April 29,

¹ See Letter from Regina Dorsey for Mark A. Reger, Chief Financial Officer, Office of Managing Director, FCC to William H. Wilhelm, Jr., Esq. and Douglas D. Orvis II, Esq. (dated Jan. 15, 2003) (*Jan. 15 Letter*).

² See *Jan. 15 Letter* (citing *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12761-62 (1995)).

2002.” In a supplemental communication, you confirm that the Lightyear Companies remain in Chapter 11 bankruptcy proceedings.

We find that your statement that the Lightyear Companies remain in Chapter 11 bankruptcy provides good cause for waiver of the \$146,209.60 FY 2003 regulatory fees for the Lightyear Companies. We therefore grant the Lightyear Companies a waiver of the total FY 2003 regulatory fees and, in doing so, we also grant Lightyear Companies a refund of the \$98,941.84 that they paid with respect to the FY 2003 regulatory fees. Although Lightyear did not request a refund, as required by 47 C.F.R. §1.1160, we will issue a refund in view of the Commission’s stated policy to waive fees for entities in bankruptcy.³ A check made payable to the maker of the original check, and drawn in the amount of \$98,941.84, will be sent to you at the earliest practicable time.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", written over a horizontal line.

Mark A. Reger
Chief Financial Officer

³ See *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd at 12761-62.

00000 RROG-03-098

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7645
WWW.SWIDLAW.COM

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
TEL (212) 973-0111
FAX (212) 891-9598

RECEIVED
FCC
2004 SEP -9 P 4:11
COURT PROCESSING
UNIT
VIA COURIER

September 4, 2003

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SEP - 4 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Marlene H. Dortch, Secretary
Federal Communications Commission
236 Massachusetts Avenue, NE, Suite 100
Washington, D.C. 20002

Attn: Office of Managing Director, Regulatory Fee Waiver/Reduction Request

**RE: Regulatory Fees of Lightyear Communications, Inc. and Lightyear
Telecommunications, LLC**

Dear Secretary Dortch:

Enclosed please find the completed Forms 159 for Lightyear Communications, Inc. and Lightyear Telecommunications, LLC ("Lightyear Companies") for the submission of regulatory fees, based on 2002 revenue of the Lightyear Companies. The Lightyear Companies intend to file these forms on or before September 24, 2003. Under the 2003 regulatory fee schedule, the Lightyear Companies would owe a total of \$146,209.60 in regulatory fee payments.

Lightyear intends to pay, without protest, \$98,941.84 of this amount. The remaining \$47,267.76 in regulatory fees from the Lightyear Companies cannot be paid, however, as the Lightyear Companies do not believe they are legally authorized to pay this amount. This amount represents fees based on revenue earned before April 29, 2002, and thus cannot be paid absent approval of the U.S. Bankruptcy Court.

The Lightyear Companies, along with its parent company, Lightyear Holdings, Inc. ("Holdings"), (collectively, with the Lightyear Companies, "Lightyear,") filed a voluntary petition for protection under the U.S. Bankruptcy Code on April 29, 2002. For the reasons outlined below, Lightyear maintains that payment of the Regulatory Fees at this time would be inconsistent with U.S. Bankruptcy Law.

Under U.S. Bankruptcy law, a debtor cannot pay a debt designated as pre-petition absent approval of the supervising U.S. Bankruptcy Court. If the Commission wishes to make a claim

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Marlene H. Dortch, Secretary

September 4, 2003

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with the supervising court, the Commission must file a proof of claim with the U.S. Bankruptcy Court for the Western District of Kentucky.

Moreover, under Commission's rules, a company that has filed for bankruptcy is a new entity. Carriers that file for bankruptcy protection must file a notice of this filing with the Commission. Lightyear filed such a letter with the Commission on May 23, 2002. In establishing this rule, the Commission noted that a bankruptcy is a *pro forma* transfer of control. In this case, the post-bankruptcy Lightyear Companies were thus established on April 29, 2002, and are not responsible for regulatory fee payments owing as a result of revenue prior to April 29, 2002.

In addition, there is precedent for granting this limited waiver request. On January 15, 2003, by letter to counsel for the Lightyear Companies, this office granted Lightyear a waiver of the regulatory fees based on calendar 2001 revenue as requested. A copy of the January 15, 2003 letter is attached to this letter for your reference.

Under the Commission's Regulatory Fee payment guidelines, a company can request waiver of the payment of the regulatory fees at the time of filing of the regulatory fees. While payment under protest is preferred, companies can withhold payment where payment of the fee would be a hardship for the company in question. Because payment of the fee could constitute a violation of applicable U.S. Bankruptcy laws, Lightyear hereby withholds payment, absent order from the U.S. Bankruptcy Court.

If you have any questions in this matter, please contact Douglas Orvis, at 202-945-6941.

Respectfully submitted,



William B. Wilhelm, Jr.
Douglas D. Orvis II

Counsel for the Lightyear Companies

Enclosures

cc: Greg Williams
John Greive
Linda Hunt

FEDERAL COMMUNICATIONS COMMISSION
Washington, D C. 20554

OFFICE OF
MANAGING DIRECTOR

JAN 15 2003

William H. Wilhelm, Jr.
Douglas D. Orvis II
Swidler Berlin Sheriff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, D.C. 20007-5116

Re: Request for Waiver of FY 2002 Regulatory Fee
Fee Control No.: 00000RROG-03-046

Dear Counsel:

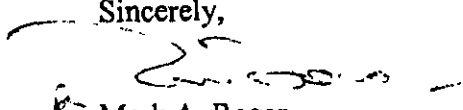
This letter responds to your request dated September 25, 2002 for waiver of common carrier regulatory fees for Fiscal Year (FY) 2002 in the amount of approximately \$135,000 submitted on behalf of Lightyear Communications, Inc. and Lightyear Telecommunications, LLC ("Lightyear Companies").

You recite that the Lightyear Companies, together with their parent company, Lightyear Holdings, Inc., filed voluntary petitions for protection under the United States Bankruptcy Code on April 29, 2002. In support you submit copies of the filings made by the Lightyear Companies in the United States Bankruptcy Court, Western District of Kentucky. In view of the ongoing bankruptcy, you request a waiver of the requisite regulatory fees.

The Commission will grant waivers of its regulatory fees on a sufficient showing of financial hardship. Evidence of bankruptcy or receivership is sufficient to establish financial hardship. See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995) (waivers granted for licensees whose stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership). You have submitted information showing that the Lightyear Companies have been the subject of Chapter 11 bankruptcy proceedings since April 29, 2002. Therefore, your request for waiver of the FY 2002 regulatory fees is granted.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,


Mark A. Reger
Chief Financial Officer

READ INSTRUCTIONS CAREFULLY
BEFORE PREPARING

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE

Approved by OMR

3066-0300

Page 1 of 1

(1) LOCK BOX #		SPECIAL USE ONLY	
SECTION A - PAYER INFORMATION			
(2) PAYER NAME (If paying by credit card enter name exactly as it appears on the card) Lightyear Communications, Inc.		(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) \$93,545.57	
(4) STREET ADDRESS LINE NO. 1 1901 Eastpoint Parkway			
(5) STREET ADDRESS LINE NO. 2			
(6) CITY Louisville		(7) STATE KY	(8) ZIP CODE 40223
(9) DAYTIME TELEPHONE NUMBER (include area code) 502-244-6666		(10) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(11) PAYER (FRN) 0003-7731-32		FCC USE ONLY	
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEET (FORM 159-C) COMPLETE SECTION BELOW FOR EACH SERVICE. IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(13) APPLICANT NAME Lightyear Communications, Inc.			
(14) STREET ADDRESS LINE NO. 1 1901 Eastpoint Parkway			
(15) STREET ADDRESS LINE NO. 2			
(16) CITY Louisville		(17) STATE KY	(18) ZIP CODE 40223
(19) DAYTIME TELEPHONE NUMBER (include area code) 502-244-6666		(20) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(21) APPLICANT (FRN) 00037731-32		FCC USE ONLY	
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(23A) CALL SIGN/OTHER ID 812066	(24A) PAYMENT TYPE CODE 0372	(25A) QUANTITY 47,007,820.56	
(26A) FEE DUE FOR (PTC) \$93,545.57	(27A) TOTAL FEE \$93,545.57	FCC USE ONLY	
(28A) FCC CODE 1 47,007,820.56	(29A) FCC CODE 2 0		
(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY	
(28B) FCC CODE 1	(29B) FCC CODE 2		
SECTION D - CERTIFICATION			
CERTIFICATION STATEMENT I, <u>John J. George</u> , certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.			
SIGNATURE <u>John J. George</u>		DATE <u>9/4/03</u>	
SECTION E - CREDIT CARD PAYMENT INFORMATION			
MASTERCARD _____ VISA _____ AMEX _____ DISCOVER _____			
ACCOUNT NUMBER _____ EXPIRATION DATE _____			
I hereby authorize the FCC to charge my credit card for the service(s)/authorization herein described.			
SIGNATURE _____		DATE _____	

SEE PUBLIC BURDEN ON REVERSE

FCC FORM 159

FEBRUARY 2003 (REVISED)

**READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING**

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE

Approved by OMD
1/10/80-0100

Page - 8 -

(1) LOCKBOX #		(2) SPECIAL USE ONLY	
SECTION A - PAYER INFORMATION			
(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) Lightyear Telecommunications LLC		(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) \$5,396.27	
(4) STREET ADDRESS LINE NO. 1 1901 Eastpoint Parkway			
(5) STREET ADDRESS LINE NO. 2			
(6) CITY Louisville		(7) STATE KY	(8) ZIP CODE 40223
(9) DAYTIME TELEPHONE NUMBER (include area code) 502-244-6666		(10) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(11) PAYER (FRN) 0003-7731-16		(12) PAYER (FRN) (if not in U.S.A.)	
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 156-C) COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(13) APPLICANT NAME Lightyear Telecommunications LLC			
(14) STREET ADDRESS LINE NO. 1 1901 Eastpoint Parkway			
(15) STREET ADDRESS LINE NO. 2			
(16) CITY Louisville		(17) STATE KY	(18) ZIP CODE 40223
(19) DAYTIME TELEPHONE NUMBER (include area code) 502-244-6666		(20) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(21) APPLICANT (FRN) 0003-7731-16		(22) APPLICANT (FRN) (if not in U.S.A.)	
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(23A) CALL SIGN/OTHER ID 815064	(24A) PAYMENT TYPE CODE 0372	(25A) QUANTITY 2,711,693.90	
(26A) FEE DUE FOR (PTC) \$5,396.27	(27A) TOTAL FEE \$5,396.27		(28A) FEE DUE FOR (PTC)
(28A) FCC CODE 1 2,711,693.90	(29A) FCC CODE 2 0		
(25D) CALL SIGN/OTHER ID	(24D) PAYMENT TYPE CODE	(25D) QUANTITY	
(26D) FEE DUE FOR (PTC)	(27D) TOTAL FEE		(28D) FEE DUE FOR (PTC)
(28D) FCC CODE 1	(29D) FCC CODE 2		
SECTION D - CERTIFICATION			
CERTIFICATION STATEMENT I, <u>John J. Givins</u> , certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief. SIGNATURE: <u>John J. Givins</u> DATE: <u>7/4/03</u>			
SECTION E - CREDIT CARD PAYMENT INFORMATION			
MASTERCARD _____ VISA _____ AMEX _____ DISCOVER _____ ACCOUNT NUMBER _____ EXPIRATION DATE _____			
I hereby authorize the FCC to charge my credit card for the service(s)/authorization herein described. SIGNATURE _____ DATE _____			

SEE PUBLIC BURDEN ON REVERSE

FCC FORM 159

DECEMBER 2004 (REVISED)

AR012-A
11/21/2003
15 43:37

RAMIS ACCOUNTS RECEIVABLE - (c) DSG, Inc
RECEIPTS DETAIL REPORT
SORTED BY TRANSACTION DATE, CD No , FEE CONTROL No

PAGE 1
11/21/2003
15:43 37

CD NO.	CD DATE	FEE CONTROL No.	FRN	PAYER NAME	TRANSACTION DATE	RECEIPT AMOUNT
560310	9/14/01	0109148835278007	0003773116	Lightyear Telecommunications L	9/13/01	\$10,936.00
Seq 1 Call Sign 8150842001 FCC Code 1: 8285167 FCC Code 2: 0 PTC. 0172 QTY. 8285167 Applied Amt. 10936 00 Tin Number 0043437435 Applicant Name LIGHTYEAR TELECOMMUNICATIONS L Address 1901 EASTPOINT PARKWAY						
560812	9/25/03	0309258835509006	0003773116	Lightyear Telecommunications L	9/24/03	\$5,396.27
Seq 1 Call Sign. 815084 FCC Code 1: 271169390 FCC Code 2: 0 PTC. 0372 QTY. 271169390 Applied Amt: 5396 27 Tin Number Applicant Name LIGHTYEAR TELECOMMUNICATIONS L Address 1901 EASTPOINT PARKWAY						
Total.				\$16,332 27		



AR012-A
11/21/2003
15:43:08

RAMIS ACCOUNTS RECEIVABLE - (C) DSG, Inc
RECEIPTS DETAIL REPORT
SORTED BY TRANSACTION DATE, CD No., FEE CONTROL No

PAGE 1
11/21/2003
15:43:08

CD No.	CD DATE	FEE CONTROL No	FRN	PAYER NAME	TRANSACTION DATE	RECEIPT AMOUNT
560310	9/14/01	0109148835278006	0003773132	Lightyear Communications Inc	9/13/01	\$127,930 00
Seq: 1 Call Sign: 8120662001 FCC Code 1 96916806 FCC Code 2 0 PTC: 0172 QTY: 96916806 Applied Amt: 127930.00 Tin Number 0611240037 Applicant Name: LIGHTYEAR COMMUNICATIONS INC Address: 1901 EASTPOINT PARKWAY						
560812	9/25/03	0309258835509007	0003773132	Lightyear Communications Inc.	9/24/03	\$93,545 57
Seq: 1 Call Sign: 812066 FCC Code 1: 4700782056 FCC Code 2, 0 PTC: 0372 QTY: 47007820 Applied Amt: 93545 57 Tin Number. Applicant Name LIGHTYEAR COMMUNICATIONS INC Address: 1901 EASTPOINT PARKWAY						
Total.				\$221,475.57		

